

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare-East Godavari District- Revision Petition filed U/S 6 of A.P.S.A.L.T.R 1959 by Sri. Uggina Satyanarayana S/o Late Appanna & Sri Uggina Atchiraju S/O Appanna R/O Urlakulapadu (V) of Rajavommangi (M) against the orders of the Agent to Government , Rampachodavarm , East Godavari District in C.M.A Nos: 92/88 and 93/88 Dated: 25-03-1989-Dismissed-Orders-Issued.

SOCIAL WELFARE (LTR) DEPARTMENT

G.O.Ms No:202.
2008

Dated:18-11-

Read the

following:

1. From Sri Uggina Satyanarayana S/O Appanna Revision Petition dated:26-2-005.
2. From Sri Uggina Atchiraju S/O Appanna Revision Petition dated:26-02-2005.
3. Govt Memo No: 3186/LTR2/2005 Dated: 19-04-2005.
4. Govt Memo No: 3188/LTR2/2005 Dated: 19-04-2005.
5. From Collector, East Godavari in F2/2424/2005 Dated: 28-05-2005.
6. Govt Memo No: 3188/LTR/2005 Dt: 18-06-05, 17-08-05, 30-12-05, 07-02-06, 09-03-06 & 03-08-2007.

ORDER:

In the reference 1st read above Sri Uggina Satyanarayana S/O Appanna and Sri Uggina Atchiraju S/O Appanna have filed Revision Petitions before the Government against the Orders of the Agent to Government in C.M.A Nos: 92/88 and 93/88 dated: 25-03-1989 in respect of lands admeasuring Acres 4.75 cents. in Survey No: 4/4B and Acres 5.25 cents. in Sy. No.4/5C of Rajavommangi (M), of East Godavari District. The main grounds of the appellant in the Revision Petitions among others are as hereunder:

1. In the IJARA REGIME ., the petitioner's father Appanna occupied and acquired a total extent of Acres 20.25 cents and cleared the shrubs, bushes and stones and made the total extent for dry cultivation.
2. The Madras Provincial Government got surveyed the lands of the EX.MANSAB of Jaddangi etc, Urlakulapadu village and granted Rough Pattas to the eligible ryots. Thus the land extent Acres 5.25 cents in Survey No: 4/5-C were surveyed and registered in the name of Uggina Appanna , the father of this petitioner along with the other extents but the land was kept under "poramboke" in the survey records and registers and thus the settlement rough patta was not granted to late Uggina Appanna. However, petitioner's father has been in his occupation possession.
3. The Agent should and ought to have remanded the case as per the direction of the special Commissioner to the Sub-Collector, Rampachodavaram and failed to follow the directions of the Special Commissioner.

2. The Brief History of the case is that the Sub collector, Rampachodavaram cancelled D-Form pattas granted to Revision Petitioners in Urlakalapadu of Rajavommangi (M) in East Godavari District as the assignees are non-tribals (kapu by caste) and assignment of Government lands to Non-tribals in Scheduled areas is prohibited in G.O.Ms.No: 971 (Rev.B) Department, Dt:07-10-1969 and also against the provisions of LTR 1/59 vide C/281/87, dt.6-8-1988.

Aggrieved by the Orders of the Sub-Collector, Rampachodavaram the assignees have filed appeals before the Agent to Government. The Agent to Government, after giving reasonable opportunity examined the case and held, that the appellants belong to Kapu caste, That the assignment of Government land to the appellants who are non-tribal is fundamentally wrong and against the interest and welfare of the poor tribals, that even the assignment of Government land in the scheduled areas to a non-tribal is a transfer in terms of section 2 (g) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, as the Government is treated as a non-tribal and therefore the assignment is null and void under sec 4(1) of the Agency Act 1 of 1917 and also sec 3 of the A.P Land Transfer Regulations 1 of 1959. The Agent to Government held that the orders of the Sub-Collector, Rampachodavaram canceling the D form pattas granted to the Appellants who are non tribals is not contrary to law, and there is no reason to interfere with the orders of the Lower Court and dismissed the Appeal vide orders dated 25-03-1989 in C.M.A No: 92/88, 93/88 and 94/88. Aggrieved by the orders of the Agent to Government, East Godavari District, Kakinada, the appellants have filed Writ Petition Nos:5355/89, 5347/89 and 5346/89 before the Hon'ble High Court of A.P. The Hon'ble High Court of A.P, Hyderabad while disposing the W.P's dated 13-08-1996, directed the writ petitioners to approach the commissioner by way of Revision within a period of 2 months from the date of orders. The petitioners have filed Revision before the Special Commissioner of Land Revenue, A.P., Hyderabad along with stay petition. The Special Commissioner of Land Revenue Hyderabad, has rejected the stay petition in orders BCW.1087/96, Dt:19-11-1996. Aggrieved by the above orders, the petitioners filed W.P No:2813/96 before the Hon'ble High Court of A.P., Hyderabad for quashing the orders of Special Commissioner of Land Revenue dated:19-11-1996. The Hon'ble High Court dismissed the W.P on 28-01-1997 with an observation that the petitioners have not filed any proof that they belong to Konda Kapu Community. The appellate authority upon perusing the petition filed by the appellants and the Special Commissioner of Land Revenue remanded the matter to the Appellate Authority for denovo enquiry, upon hearing the arguments of Appellants and Advocate for the respondents, held that no new fact have been brought to the notice of the court and assignment of land in scheduled areas to no-triblas is prohibited and in contravention of the provisions of LTR 1/59, the D Form pattas granted to the appellants who are non tribals are liable for cancellation. Hence the Appellate confirmed the orders passed by the Sub-Collector, Rampachodavaram canceling the D form pattas granted to the Revision Petitioners. Aggrieved by the orders the Revision Petitioners have filed the present Revision Petition before the Government.

3. In the reference 2nd read above, the Agent to Government, Rampachodavaram was requested to furnish parawise remarks and case records and the same were furnished in the reference 3rd read above. After examining the case records, notices were issued to the concerned to attend hearing of the Revision Petition on 20-07-2005, 17-09-2005, 28-01-2006, 25-02-2006, 25-03-2006 and was finally heard on 16-08-2007. Both Petitioner and his Counsel were absent.

4. Government upon perusal of the material evidence on record found that :

- i) Vide Proceedings Rc No:C.281/87, Dt:06-08-1988, the Sub-Collector, Rampcchodavaram cancelled D form pattas granted to Sri Uggina Satyanarayan (in Sy. No: 4/4B4- Acres 4.75), Uggina Appanna i.e Petitioner's father (in Sy.No: 4/5C Acres 5.25) and Uggina Bulli Abbayi S/O Appanna (in Survey

No: 4/3A -Acres 5.00) total Acres 15.00 as the assignees are non-tribals (kapu by caste) and assignment of Government lands to non-tribals in scheduled areas is prohibited in G.O.Ms No:971 (REVB) Dept dated: 07-10-1969 and also against the provisions of LTR 1/59.

- ii) Accordingly, the Agent to Government East Godavari Kakinada upheld the orders of the Sub-Collector, Rampachodavaram in C.M.A No:92/88, 93/88 and 94/88, dt: 25-03-1989.
- iii) The Special Commissioner of Land Revenue remanded the matter to the Appellate authority for denovo enquiry and temporarily stayed the orders of the Agent to Government in the above CMA'S vide orders dated: 3-9-1998 in B.C.W.5/1087/96.
- iv) The Appellate authority upon perusing the petition filed by the non-tribal appellants, connected CMA files, lower court orders and upon hearing arguments, held that there were no new facts brought to the notice of the court and assignment of land in scheduled areas to non-tribals is prohibited and in contravention of provisions of LTR 1/59, the D form pattas granted are liable for cancellation and hence confirmed the orders passed by the Sub-Collector, Rampachodavaram.
- v) The contention of the petitioner to remand to the sub-collector, Rampachodavaram is not correct, as the Commissioner of Land Revenue directed the Appellate authority for denovo enquiry i.e. Agent to Government but not the Sub-Collector, Rampachodavaram.
- vi) The petitioner himself admitted that the land was classified as 'poramboke' at the time of Survey Settlement and the Settlement Officers rejected the rough patta to the petitioner in the year 1902 and hence they are not entitled for assignment of Government land as they are non-tribals. Hence 'D' Form pattas obtained by them by furnishing false information about their social status was rightly cancelled by the Sub-Collector, Rampachodavaram in Ref.C/281/87, Dated: 06-08-1988.
- vii) The contention of the petitioner is that Reg.1/59 is prospective but not retrospective, is not correct as the Government lands were granted patta to the petitioners in the year 1986 and were cancelled in the year 1988, which is after 1/59 as amended by 1/70. Hence, the APSALTR is attracted.

5. Government after careful examination of the case records finds no reason to interfere with the Orders of the Agent to Government Rampachodavaram East Godavari District in F2/7307/1998, Dated: 07-06-2000 and accordingly dismiss the Revision Petition.

6. The Collector, East Godavari District /Additional Agent to Government, Rampachodavaram is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K. TIGIDI,
PRL. SECRETARY TO GOVERNMENT

To:

The Collector, East Godavari District (w.e)
(with RPAD of the following Records)
Case File NO: F2/7307/98 containing 180 pages only.
Case File No: C.M.A No: 93/88 containing 24 pages only
Case File No: C.M.A No: 92/88 containing 98 pages only.
The Agent to Government, Rampachodavaram, East Godavari .
The Sub-Collector, Rampachodavaram, East Godavari .
The Mandal Revenue Officer, Rajavommangi, East Godavari.
Sri Uggina Atchiraju, Urlakalapadu (V) Rajavommangi (M)
East Godavari District .
Copy to P.S. to M (TW&RAID).
SF / SC.

// FORWARDED BY ORDER //

SECTION OFFICER